

R430-90-3: LICENSE REQUIRED

Individuals and businesses that provide care for children are licensed and regulated by Child Care Licensing (CCL) unless they are specifically exempt under Utah law. The rules in this section explain who is required to be licensed as a licensed family child care facility. In licensed facilities, CCL rules apply to all qualifying children.

- (1) **A person or persons shall be licensed under this rule if they provide child care:**
- (a) **in the home where they reside;**
 - (b) **in the absence of the child's parent;**
 - (c) **for 5 to 16 unrelated children;**
 - (d) **for 4 or more hours per day;**
 - (e) **on a regularly scheduled, ongoing basis; and**
 - (f) **for direct or indirect compensation.**

Proposed Rule Change

- (1) A person or persons shall be licensed under this rule if they provide child care:
- (a) in the home where they reside;
 - (b) in the absence of the child's parent;
 - (c) for 5 to 16 or more unrelated children;
 - (d) for 4 or more hours per day;
 - (e) for each individual child for less than 24 hours per day;
 - (e) on a regularly scheduled, ongoing basis; and
 - (f) for direct or indirect compensation.
-

Rationale / Explanation

Requiring child care providers to meet licensing standards provides a baseline of protection and helps prevent various forms of harm to children, such as risks from the spread of disease, fire and other safety hazards, physical or emotional injury from inadequate supervision, or the lack of healthy relationships with adults. National Center on Early Childhood Quality Assurance. *Research Brief #1: Trends in Child Care Center Licensing Regulations and Policies*. Fairfax, VA. (2015).

Compliance Guidelines

- An individual providing child care in their home is licensed as a residential child care facility.
 - Only one license or certificate will be issued for the same home.
 - When a person owns or rents both sides of a duplex and lives in one side and wants to provide care in the other side, a license may be issued for the unoccupied side as long as there is a door adjoining both sides. In this case, the duplex will be considered one residence.
- A license is required when a provider cares for five or more qualifying children.
- Individuals who care for fewer than 5 children are not required by law to be regulated. However, a person may request to be regulated by Child Care Licensing if they care for at least one unrelated, qualifying child under the other conditions listed in 90-3(1)(a)-(f) above.
- People who care for children less than 4 hours per day are not required to be licensed. This

- includes preschools that have a morning and afternoon session, each less than 4 hours, provided that no child attends both sessions, or attends a total of 4 hours or more per day.
- A “regularly scheduled, ongoing basis” means that children attend the program on a regular basis, as opposed to occasional drop-in care.
 - Direct compensation means that there is a cash payment for providing child care. Indirect compensation is a noncash payment of goods, time, or services for the child care that is provided.
 - Noncompliance with this rule will be determined by the CCL complaint investigator.

High Risk Rule Violation

Corrective Action for 1st Instance

Citation and CMP Warning

- (2) **The Department may not license, nor is a license required for:**
- (a) **a person who cares for related children only; or**
 - (b) **a person who provides care on a sporadic basis only.**

Rationale / Explanation

When a provider cares for related children only, in order to receive child care subsidy payments from the State, the provider must obtain an approval from the Division of Workforce Services (DWS). Instructions for obtaining this approval may be found at: childcarelicensing.utah.gov.

A license is unavailable for occasional drop-in child care.

- (3) **According to Foster Care Services rule R501-12-4(8)(f), a provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.**

Proposed Rule Change

- (3) ~~According to Foster Care Services rule R501-12-4(8)(f)(d), a provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.~~

A provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program, unless the part of the building proposed to be licensed by CCL is physically separated from the other building services.
